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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re Kevida Turner,) Case No.: 15-16646-ABL
) Chapter 7
Debtor.)
) Hearing date: January 20, 2016
) Hearing time: 10:30 a.m.
)
) MOTION FOR RELIEF FROM
) AUTOMATIC STAY
)

COMES NOW Mona Ng, landlord to Debtor, and respectfully requests an Order of this Court pursuant to 11 USC 362 relieving the landlord from the automatic stay to enforce an existing Summary Eviction Order in favor of Movant against Debtor, for the property located at 10503 Miner's Gulch. In support of this Motion, Movant states as follows:

LEGAL BASIS FOR RELIEF

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay...
(1)for cause, including the lack of adequate protection of an interest in property of such party in interest;

1 (2)with respect to a stay of an act against property under
2 subsection (a) of this section, if—
3 (A)the debtor does not have an equity in such property; and
4 (B)such property is not necessary to an effective
5 reorganization.

6
7 11 USC 362(d).

8 **A. Debtor has not provided adequate protection for the**
9 **property or taken steps to preserve the tenancy.**

10 Debtor's residence at 10503 Miner's Gulch, Las Vegas, NV,
11 is a rental property owned by Mona Ng and managed by Ameropan
12 Realty. Debtor occupies the residence under a month to month
13 tenancy which costs \$1,460 per month.

14 Debtor has not paid rent since September, 2015, and became
15 delinquent in October, 2015. As a result, Ameropan Realty on
16 behalf of the landlord, Mona Ng, moved for summary eviction. A
17 copy of the Las Vegas Justice Court docket is attached to
18 Movant's Motion to Dismiss, on file herein as Docket 16.

19 Debtor opposed the eviction but failed to appear in court
20 on the scheduled date. The eviction order was entered and Debtor
21 appealed.

22 Judge Ron Israel upheld the eviction, finding no valid
23 defenses exist to payment of rent and for Debtor's failure to
24 appear in Justice Court below. A copy of Judge Israel's Order is
25 attached to Movant's Motion to Dismiss, on file herein as Docket
26 16.
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1 Thereafter, the eviction order was transmitted to the
2 Constable for execution. A few days later, Debtor petitioned
3 this Court for relief. *Id.*

4 This Movant moved to dismiss this case, and the Motion to
5 Dismiss is pending concurrently. Although Movant believes that
6 the Summary Eviction Order is exempt from the stay pursuant to
7 11 USC 362(b)(2), this Motion is made both out of caution and
8 because the Constable will not proceed without an Order of this
9 Court.
10 Court.

11 Debtor has failed to make arrangements to become current on
12 her tenancy, to deposit rent with the Court, or otherwise
13 indicate that she intends to become current. This is reflected
14 in the 362 information sheet, which evidences that efforts were
15 made to resolve this matter prior to the filing of this Motion.
16 made to resolve this matter prior to the filing of this Motion.
17 made to resolve this matter prior to the filing of this Motion.

18 In failing to make current or past rental payments, the
19 landlord is without adequate protection for the property. *See,*
20 *e.g., In re DeSantis*, 66 B.R. 998 (E.D. Pa. 1986). Movant
21 submits that appropriate adequate protection would consist of
22 timely monthly payments in the amount of \$1,460. On this basis
23 alone, relief from stay is warranted.
24 alone, relief from stay is warranted.

1 **B. Debtor has no equity in the property and it is not**
2 **necessary for an effective reorganization.**

3 Debtor is not the owner of the property at issue. *Assessor*
4 *Records*, attached hereto as Exhibit "A." Movant respectfully
5 requests that the Court take notice of the Clark County Assessor
6 records which show current ownership of the property.
7

8 Debtor's schedules and statements, on file herein as Docket
9 20, indicate both that she does not own the property at issue in
10 this motion, and that she has no available income to make
11 ongoing payments.
12

13 Furthermore, because this is a Chapter 7 case, there is no
14 reorganization forecasted or expected. Together, the lack of
15 equity and the impossibility of reorganization entitle Movant to
16 relief from stay with respect to the rental property at issue.
17

18 **C. Conclusion**

19 Creditor Mona Ng respectfully requests an Order of this
20 Court terminating the automatic stay pursuant to 11 USC 362, to
21 allow Movant to enforce its rights in the property, including to
22 proceed with the Summary Eviction; and that the 14-day stay
23 described by Bankruptcy Rule 4001(a)(3) be waived to allow
24 Movant to proceed immediately, as state law otherwise allows
25 pursuant to the Eviction Order.
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1 In the alternative, should the Court decline to grant this
2 Motion, Movant requests and Order for adequate protection which
3 requires Debtor reinstate and maintain in current condition all
4 obligations due under her month-to-month tenancy.
5

6 In any event, Movant requests that Court waive the
7 requirements of Local Rule 9021, and to order such further
8 relief as the Court deems just and proper.
9

10 Dated this 16th day of December,
2015.

11 /s/ Valerie Del Grosso, Esq.
12 Valerie Del Grosso, Esq.
13 Del Grosso Law, Ltd.
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